

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2021 JUN -7 PM 4: 20

CLERK

BY LAW
DEPUTY CLERK

SEAN E. GUILLETTE,

Plaintiff,

v.

Case No. 2:19-cv-171

STATE OF VERMONT, SOUTH
BURLINGTON POLICE DEPARTMENT,
BURLINGTON POLICE DEPARTMENT,

Defendants.

ORDER OF DISMISSAL

A review of the docket in this case reveals the following:

1. On September 30, 2019, the court granted self-represented Plaintiff Sean E. Guillette's motion for leave to proceed *in forma pauperis*, and Plaintiff's Complaint was filed.
2. Following the filing of motions to dismiss by Defendants, to which Plaintiff did not respond, on June 23, 2020, the court issued an Opinion and Order granting the motions and dismissing the Complaint. The court granted Plaintiff leave to file an Amended Complaint no later than July 24, 2020, and warned that the action would be dismissed if an Amended Complaint was not timely filed.
3. On July 23, 2020,¹ Plaintiff requested a continuance which the court granted, extending the deadline for Plaintiff to file an Amended Complaint to August 14, 2020.
4. Plaintiff timely filed a motion to amend the Complaint and later filed a motion for relief seeking damages which were denied in a February 9, 2021 Order. The court granted Plaintiff leave to file a Second Amended Complaint within

¹ The court applies the prison mailbox rule to Plaintiff's motion because he signed and dated it on July 23, 2020, although it was not received and docketed by the court until July 29, 2020. *See Houston v. Lack*, 487 U.S. 266, 276 (1988) (under the prison mailbox rule, an incarcerated self-represented litigant's document is deemed filed at the time it was delivered to prison authorities for forwarding to the court); *see also United States v. Newton*, 2014 WL 348195, at *5 (D. Vt. Jan. 31, 2014) (noting if it is unclear when an incarcerated self-represented litigant's document was mailed, courts assume it is filed on the day it is signed and dated). *See* Doc. 23.

twenty days, which was due to be filed on or before March 4, 2021. The court warned that a “[f]ailure to file . . . in the time period provided shall result in the dismissal of this case.” (Doc. 31 at 7.)

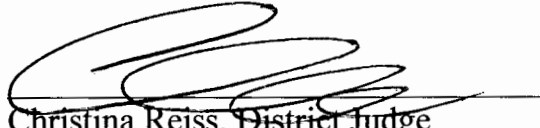
5. On March 11, 2021,² Plaintiff again moved for an extension which was opposed. The court granted Plaintiff’s motion for an extension and continued the deadline for Plaintiff to file a Second Amended Complaint by an additional sixty days. The Second Amended Complaint was due to be filed on or before May 14, 2021.
6. No further filings have been received as of the date of this Order.

The Federal Rules of Civil Procedure authorize dismissal of an action when “the plaintiff fails . . . to comply with these rules or a court order[.]” Fed. R. Civ. P. 41(b).

Because Plaintiff has not timely filed a Second Amended Complaint after being warned that failure to do so will result in dismissal, this case is hereby DISMISSED.

SO ORDERED.

Dated at Burlington, in the District of Vermont, this 4th day of June, 2021.


Christina Reiss, District Judge
United States District Court

² The court again applies the prison mailbox rule to Plaintiff’s motion because he signed and dated it on March 7, 2021, although it was not received and docketed by the court until March 11, 2021. *See* Doc. 32.